APPENDIX D

Native American Correspondence



Atkins North America, Inc.

650 East Hospitality Lane, Suite 450 San Bernardino, California 92408

Telephone: +1.909.890.5951

Fax: +1.909.890.3610

www.atkinsglobal.com/northamerica

January 27, 2012

Native American Heritage Commission c/o Dave Singleton 915 Capitol Mall, Suite 364 Sacramento, CA 95814-4801

VIA EMAIL: Dave Singleton (<u>ds_nahc@pacbell.net</u>)

Subject: Request for a Sacred Lands File Search for the Carlsbad Sewer, Water, and

Recycled Water Master Plans Environmental Impact Report (EIR) Project, located in an area encompassing approximately 40 Square Miles within Carlsbad, Oceanside, Vista, and San Marcos, County of San Diego, California (USGS Encinitas, Rancho Santa Fe, San Luis Rey, and San Marcos, CA. 7.5-minute topographic quadrangles).

Dear Mr. Singleton:

Atkins would like to determine whether any sacred sites are listed in the NAHC Sacred Lands File (SLF) for a project site relating to the Carlsbad Sewer, Water, and Recycled Water Master Plans EIR Project. The proposed project is the update of the City of Carlsbad's Sewer Master Plan, and the Carlsbad Municipal Water District (CMWD) Water and Recycled Water Master Plans to identify and implement the Capital Improvement Programs (CIP) required to meet current and future demand. The area considered by the project includes the service areas of the CMWD for water and recycled water, and Carlsbad's wastewater service area. The project site is found in San Diego County and within various Sections and numerous Townships and Ranges on the following USGS topographic maps:

- Encinitas Township 12 South, Range 4 West;
- Rancho Santa Fe Township 12 South, Range 3 and 4 West;
- San Luis Rey Township 11 and 12 South, Range 4 and 5 West; and
- San Marcos Township 11 and 12 South, Range 3 and 4 West.

Please notify us of any SLF-listed traditional cultural resources that may be included within the project site.

If you have any questions or concerns, please do not hesitate to contact me via the contact information listed below. Atkins thanks you in advance for your time and effort.

Sincerely,

Jennifer M. Sanka, M.A., RPA

Associate Project Manager/Archaeologist

jennifer.sanka@atkinsglobal.com

STATE OF CALIFORNIA

Edmund G. Brown, Jr., Governor

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364 SACRAMENTO, CA 95814 (916) 853-6251 Fax (916) 857-6290 Web Site www.nahc.ca.gov da_nahc@pacbell.net



February 14, 2012

Ms. Jennifer Sanka, M.A., RPA, Associate Project Manager

Atkins North American, Inc.

650 East Hospitality Lane, Suite 450 San Bernardino, CA 92408

Sent by FAX to:

909-890-3610

No. of Pages:

6

Re:

Sacred Lands File Search and Native American Contacts list for the "Carlsbad Sewer Water and Recycled Water Master Plans Environmental Impact Report (EIR) Project:" located in the communities of Carlsbad, Ocenside, Vista and San Marcos; San Diego County, California

Dear Ms. Sanka:

The Native American Heritage Commission (NAHC) conducted a Sacred Lands File search of the 'area of potential effect,' (APE) based on the USGS coordinates provided and Native American cultural resources were identified in the project area of potential effect (e.g. APE): you specified. Also, please note; the NAHC Sacred Lands Inventory is not exhaustive and does not preclude the discovery of cultural resources during any project groundbreaking activity.

California Public Resources Code §§5097.94 (a) and 5097.96 authorize the NAHC to establish a Sacred Land Inventory to record Native American sacred sites and burial sites. These records are exempt from the provisions of the California Public Records Act pursuant to. California Government Code§6254 (r). The purpose of this code is to protect such sites from vandalism, theft and destruction.

In the 1985 Appellate Court decision (170 Cal App 3rd 604), the court held that the NAHC has jurisdiction and special expertise, as a state agency, over affected Native American resources, impacted by proposed projects including archaeological, places of religious significance to Native Americans and burial sites

The California Environmental Quality Act (CEQA – CA Public Resources Code §§ 21000-21177, amendments effective 3/18/2010) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the CEQA Guidelines defines a significant impact on the environment as 'a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including …objects of historic or aesthetic significance." In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential

effect (APE), and if so, to mitigate that effect. CA Government Code §65040.12(e) defines "environmental justice" provisions and is applicable to the environmental review processes.

Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries once a project is underway. Local Native Americans may have knowledge of the religious and cultural significance of the historic properties of the proposed project for the area (e.g. APE). Consultation with Native American communities is also a matter of environmental justice as defined by California Government Code §65040.12(e). We urge consultation with those tribes and interested Native Americans on the list the NAHC has attached in order to see if your proposed project might impact Native American cultural resources. Lead agencies should consider avoidance as defined in §15370 of the CEQA Guidelines when significant cultural resources as defined by the CEQA Guidelines §15064.5 (b)(c)(f) may be affected by a proposed project. If so, Section 15382 of the CEQA Guidelines defines a significant impact on the environment as "substantial," and Section 2183.2 which requires documentation, data recovery of cultural resources.

The 1992 Secretary of the Interiors Standards for the Treatment of Historic Properties were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including cultural landscapes. Also, federal Executive Orders Nos. 11593 (preservation of cultural environment), 13175 (coordination & consultation) and 13007 (Sacred Sites) are helpful, supportive guides for Section 106 consultation. The aforementioned Secretary of the Interior's Standards include recommendations for all 'lead agencies' to consider the historic context of proposed projects and to "research" the cultural landscape that might include the 'area of potential effect.'

Partnering with local tribes and interested Native American consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA (42 U.S.C 4321-43351) and Section 106 4(f), Section 110 (f)(k) of federal NHPA (16 U.S.C. 470 et seq), 36 CFR Part 800.3 (f) (2) & .5, the President's Council on Environmental Quality (CSQ, 42 U.S.C 4371 et seq. and NAGPRA (25 U.S.C. 3001-3013) as appropriate. The 1992 Secretary of the Interiors Standards for the Treatment of Historic Properties were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including cultural landscapes. Also, federal Executive Orders Nos. 11593 (preservation of cultural environment), 13175 (coordination & consultation) and 13007 (Sacred Sites) are helpful, supportive guides for Section 106 consultation. The NAHC remains concerned about the limitations and methods employed for NHPA Section 106 Consultation.

Also, California Public Resources Code Section 5097.98, California Government Code §27491 and Health & Safety Code Section 7050.5 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery', another important reason to have Native American Monitors on board with the project.

To be effective, consultation on specific projects must be the result of an ongoing relationship between Native American tribes and lead agencies, project proponents and their contractors, in the opinion of the NAHC. An excellent way to reinforce the relationship between a project and local tribes is to employ Native American Monitors in all phases of proposed projects including the planning phases.

Confidentiality of "historic properties of religious and cultural significance" may also be protected under Section 304 of he NHPA or at the Secretary of the Interior discretion if not

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eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C., 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APE and possibility threatened by proposed project activity.

If you have any questions about this response to your request, please do not hesitate to contact me at (916),653-6251.

Sincerely,

Attachment:

pave Singleton

Vative American Contact List

Native American Contacts San Diego County

February 14, 2012

Barona Group of the Capitan Grande

Edwin Romero, Chairperson

1095 Barona Road Diegueno

, CA 92040 Lakeside sue@barona-nsn.gov

(619) 443-6612 619-443-0681

San Pasqual Band of Mission Indians

Allen E. Lawson, Chairperson

PO Box 365 Diegueno

Valley Center, CA 92082 alleni@sanpasqualband.com

(760) 749-3200 (760) 749-3876 Fax

Viejas Band of Kumeyaay Indians Anthony R. Pico, Chairperson

Diegueno/Kumeyaay PO Box 908

, CA 91903 Alpine irothauff@viejas-nsn.gov

(619) 445-3810 (619) 445-5337 Fax

Kumeyaay Cultural Historic Committee

Ron Christman

56 Viejas Grade Road

, CA 92001 Alpine

(619) 445-0385

Mesa Grande Band of Mission Indians

Mark Romero, Chairperson

P.O Box 270 Diegueno

Santa Ysabel CA 92070 mesagrandeband@msn.com

(760) 782-3818

(760) 782-9092 Fax

Pala Band of Mission Indians

Tribal Historic Preservation Office/Shasta Gaugher

35008 PalaTernecula Road, PMB Luiseno Cupeno 445

Pala, CA 92059 (760) 891-3515

sgaughen@palatribe.com

(760) 742-3189 Fax

Pauma & Yuima Reservation Randali Majel, Chairperson

P.O. Box 369 Luiseno

Pauma Valley CA 92061 paumareservation@aol.com

(760) 742-1289 (760) 742-3422 Fax

Pechanga Band of Mission Indians

Paul Macarro, Cultural Resources Manager

Luiseno P.O. Box 1477

, CA 92593 Temecula

(951) 770-8100

pmacarro@pechanga-nsn.

gov

(951) 506-9491 Fax

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

Diegueno/Kumeyaay

This list is applicable for contacting local Native Americans with regard to cultural resources for the proposed Carlabad Sewer Water and Recycled Water Mfaster Plans Environmental Impact Report (EIR) Project 40 square miles within the cities of Sartsbad, Oceanside, Vista and San Marcos; San Diego County, California for which Sacred Lands Files searches and Native American Contacts

Native American Contacts San Diego County February 14, 2012

Rincon Band of Mission Indians
Tiffany Wolfe, Cultural & Environmental
P.O. Box 68 Luiseno
Valley Center, CA 92082
twolfe@rincontribe.org
(760) 297-2632
(760) 297-2639 Fax

Kwaaymii Laguna Band of Mission Indians Carmen Lucas P.O. Box 775 Diegueno -Pine Valley , CA 91962 (619) 709-4207

Inaja Band of Mission Indians Rebecca Osuna, Spokesperson 2005 S. Escondido Blvd. Diegueno Escondido , CA 92025 (760) 737-7628 (760) 747-8568 Fax

Pauma Valley Band of Luiseño Indians Bennae Calac, Tribal Council Member P.O. Box 369 Luiseno Pauma Valley CA 92061 bennaecalac@aol.com (760) 617-2872 (760) 742-3422 - FAX San Pasqual Band of Indians
Kristie Orosco, Environmental Coordinator
P.O. Box 365
Valley Center, CA 92082
Uiseno
(760) 749-3200
council@sanpasqualtribe.org
(760) 749-3876 Fax

San Luis Rey Band of Mission Indians Tribal Council 1889 Sunset Drive Luiseno Vista , CA 92081 760-724-8505 760-724-2172 - fax

San Luis Rey Band of Mission Indians Cultural Department 1889 Sunset Drive Luiseno Vista CA 92081 Cupeno 760-724-8505

760-724-2172 - fax

La Jolla Band of Mission Indians
James Trujillo, Vice Chair
22000 Highway 76 Luiseno
Pauma Valley CA 92061
rob.roy@lajolla-nsn.gov
(760) 742-3796
(760) 742-1704 Fax

This list is current only as of the date of this document.

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Native American Contacts San Diego County February 14, 2012

Ipai Nation of Santa Ysabel
Clint Linton, Director of Cultural Resources
P.O. Box 507 Diegueno/Kumeyaay
Santa Ysabel, CA 92070
cjlinton73@aol.com
(760) 803-5694
cjlinton73@aol.com

Kumeyaay Cultural Repatriation Committee
Bernice Paipa, Vice Spokesperson
P.O. Box 1120 Diegueno/Kumeyaay
Boulevard , CA 91905
(619) 478-2113

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

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Atkins North America, Inc.

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February 24, 2012

SAMPLE

Subject: Information Scoping Letter associated with the Carlsbad Sewer, Water, and

Recycled Water Master Plans Environmental Impact Report (EIR) Project, located in an area encompassing approximately 40 Square Miles within Carlsbad, Oceanside, Vista, and San Marcos, County of San Diego, California (USGS Encinitas, Rancho Santa Fe, San Luis Rey, and San Marcos, CA. 7.5-minute topographic quadrangles).

To Whom It May Concern:

Atkins is presently preparing a Cultural Resources Section to include in the Carlsbad Sewer, Water, and Recycled Water Master Plans EIR document. The purpose of the project is to update the City of Carlsbad's Sewer Master Plan, and the Carlsbad Municipal Water District's (CMWD) Water and Recycled Water Master Plans, and to identify and implement the Capital Improvement Programs (CIPs) required to meet current and future demand.

At this time, information is being obtained and reviewed to help make informed, future planning decisions. This letter is **not associated** with any government-to-government consultation process, but is an information request that will inform Atkins and the City of Carlsbad/CMWD about the presence or absence of significant resources found within the project area. Please note that if properties of traditional cultural value exist within the project area boundaries, it would be helpful to at least conceptually address them in our EIR document. However, Atkins is aware that the physical locations of properties of traditional cultural value are often considered confidential and sacred, and Atkins respects this concept. No specific location data would need to be supplied in order to consider properties and landscapes important to you. Any information supplied would only be employed to the extent allowed by the contact.

Environmental regulations, including Section 106 of the NHPA of 1966, NEPA and CEQA, consider the effects a project may have on cultural resources, including Historic Properties. The definition of Historic Properties and can include properties of traditional religious and cultural significance to Native American groups and individuals. A Sacred Land File (SLF) search has been conducted by the Native American Heritage Commission (NAHC) to assist in determining whether any traditional cultural properties are found within the project area. The NAHC has indicated that known Native American cultural resources are located within the project area. Further, the NAHC has informed Atkins that the entirety of Carlsbad and the surrounding areas are all considered highly sensitive for Native American resources. In this region, numerous archaeological sites are known, as well as burials. The NAHC has also listed you as a contact, and has indicated that you may have information about the potential for the project area to contain Native American cultural resources.

We have enclosed a set of topographic location maps covering the City of Carlsbad and the CMWD service area in the northern portion of the County of San Diego. These maps depict a variety of CIPs associated with the project, including water storage sites, sewers and water lines proposed for future repair and construction. These proposed facilities are found within various Sections, and numerous Townships and Ranges on the following USGS topographic maps:



- Encinitas Township 12 South, Range 4 West;
- Rancho Santa Fe Township 12 South, Range 3 and 4 West;
- San Luis Rey Township 11 and 12 South, Range 4 and 5 West; and
- San Marcos Township 11 and 12 South, Range 3 and 4 West.

We wish to ask if you have any information about cultural resources in the project area and/or if you have any suggestions for their future preservation. Please feel free to contact me at 909.890.5951, x. 443-2505 or jennifer.sanka@atkinsglobal.com if you have any questions or information, or you may address and mail a response to my attention at our San Bernardino Office. Information about resources located within the project area will assist in guiding the planning process, so that informed decisions can be made about the construction of future facilities as they relate to preserving the cultural heritage of the region.

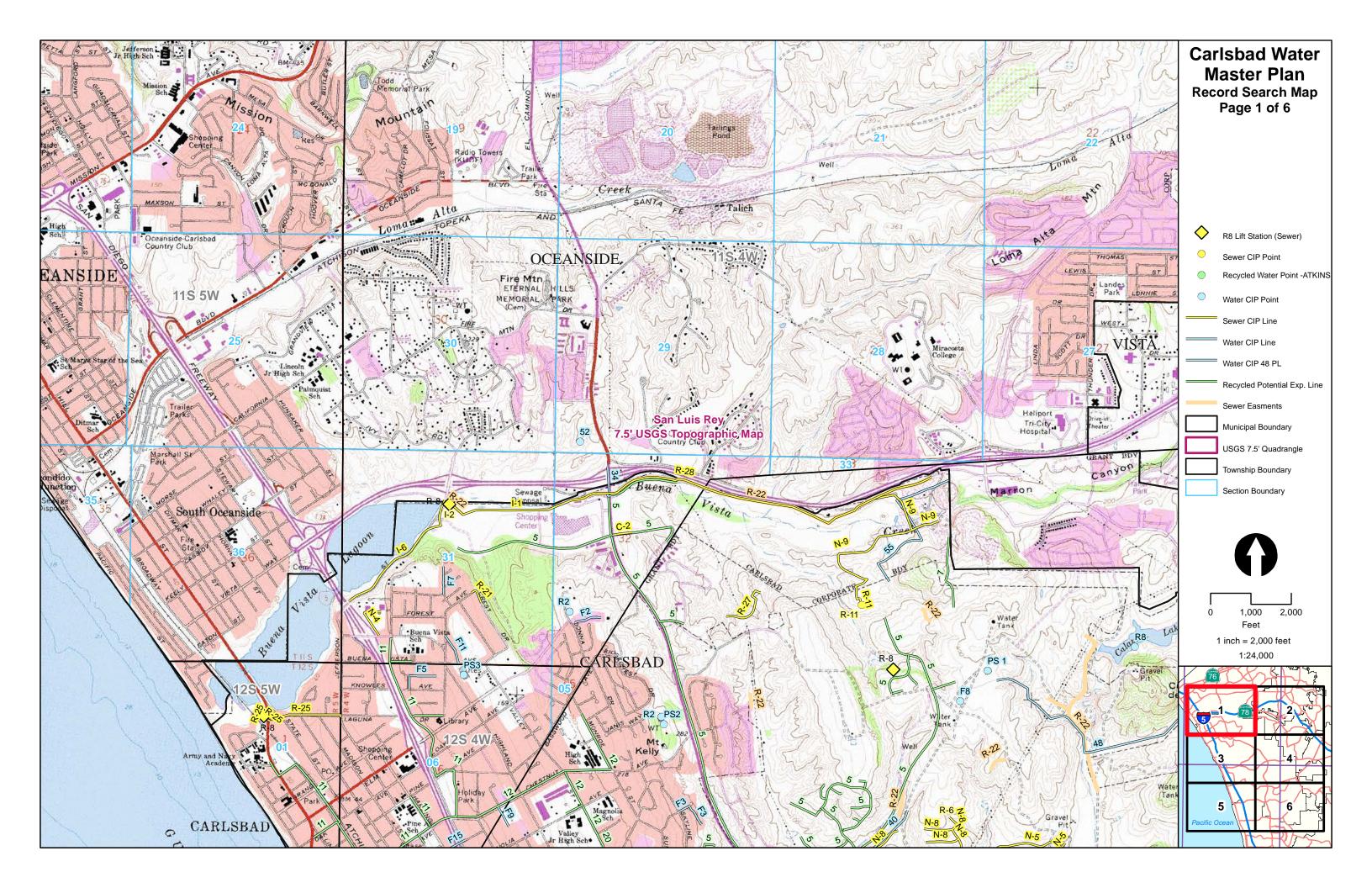
Sincerely,

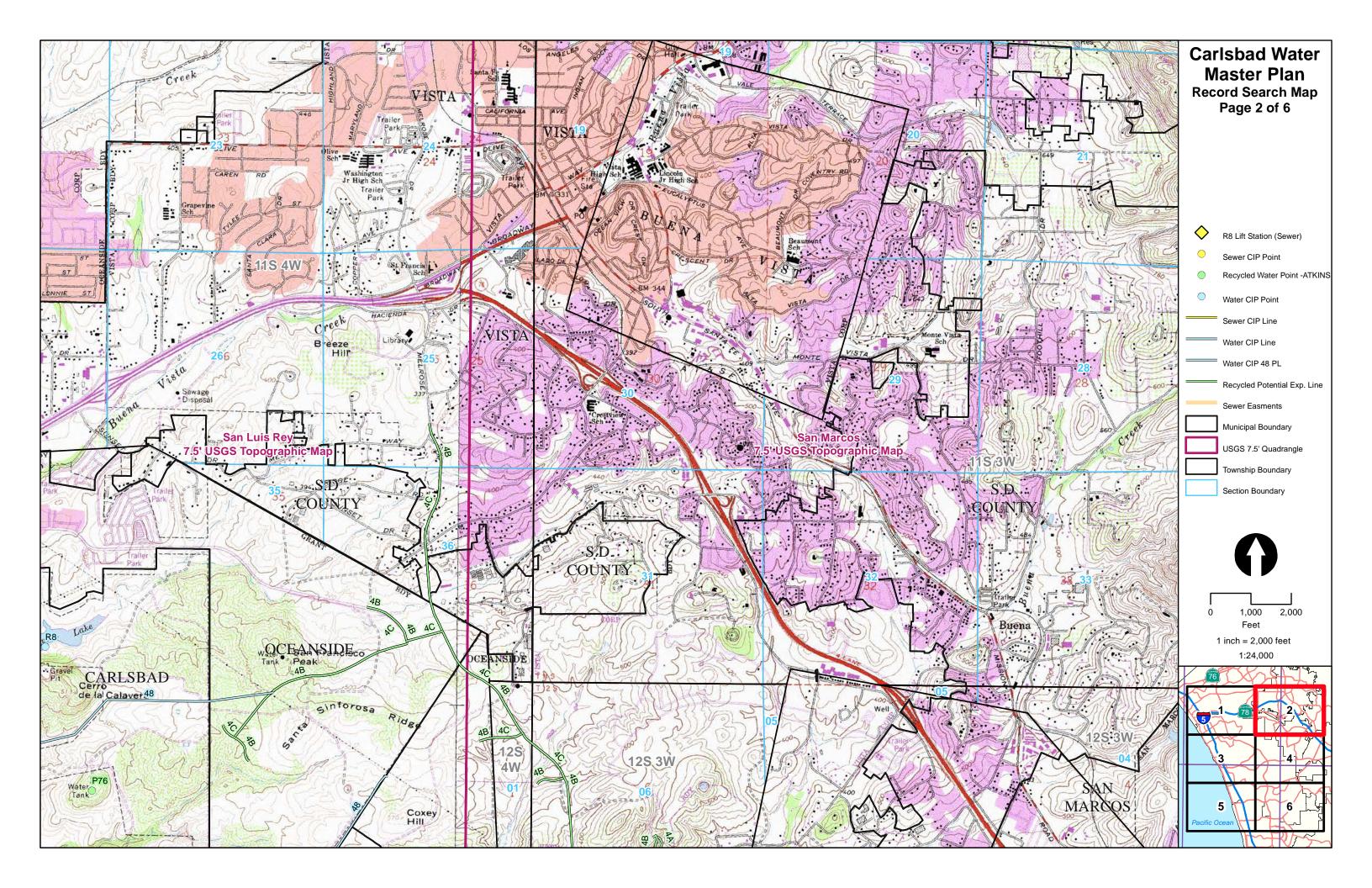
Jennifer M. Sanka, M.A., RPA

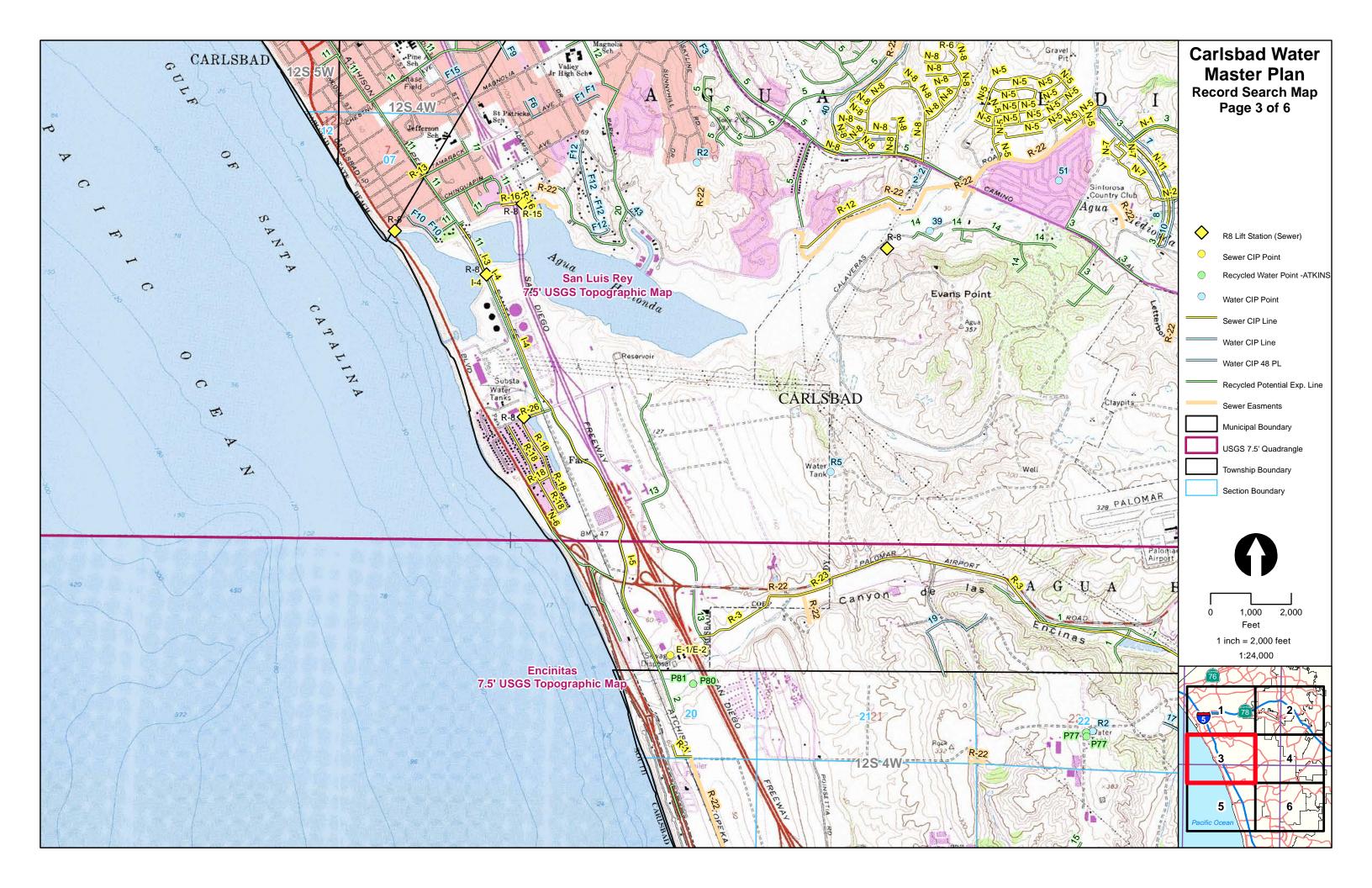
Associate Project Manager/Archaeologist

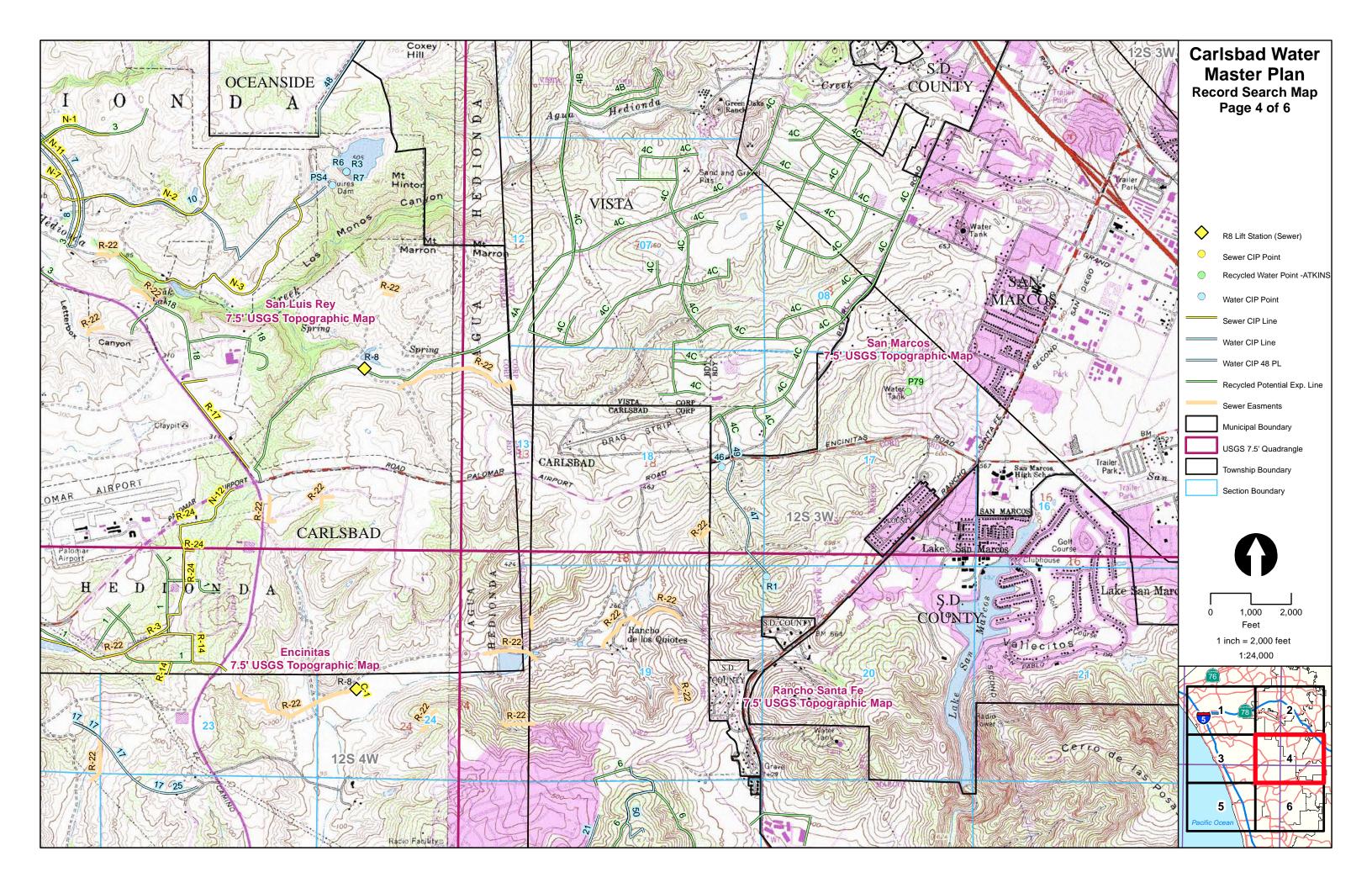
jennifer.sanka@atkinsglobal.com

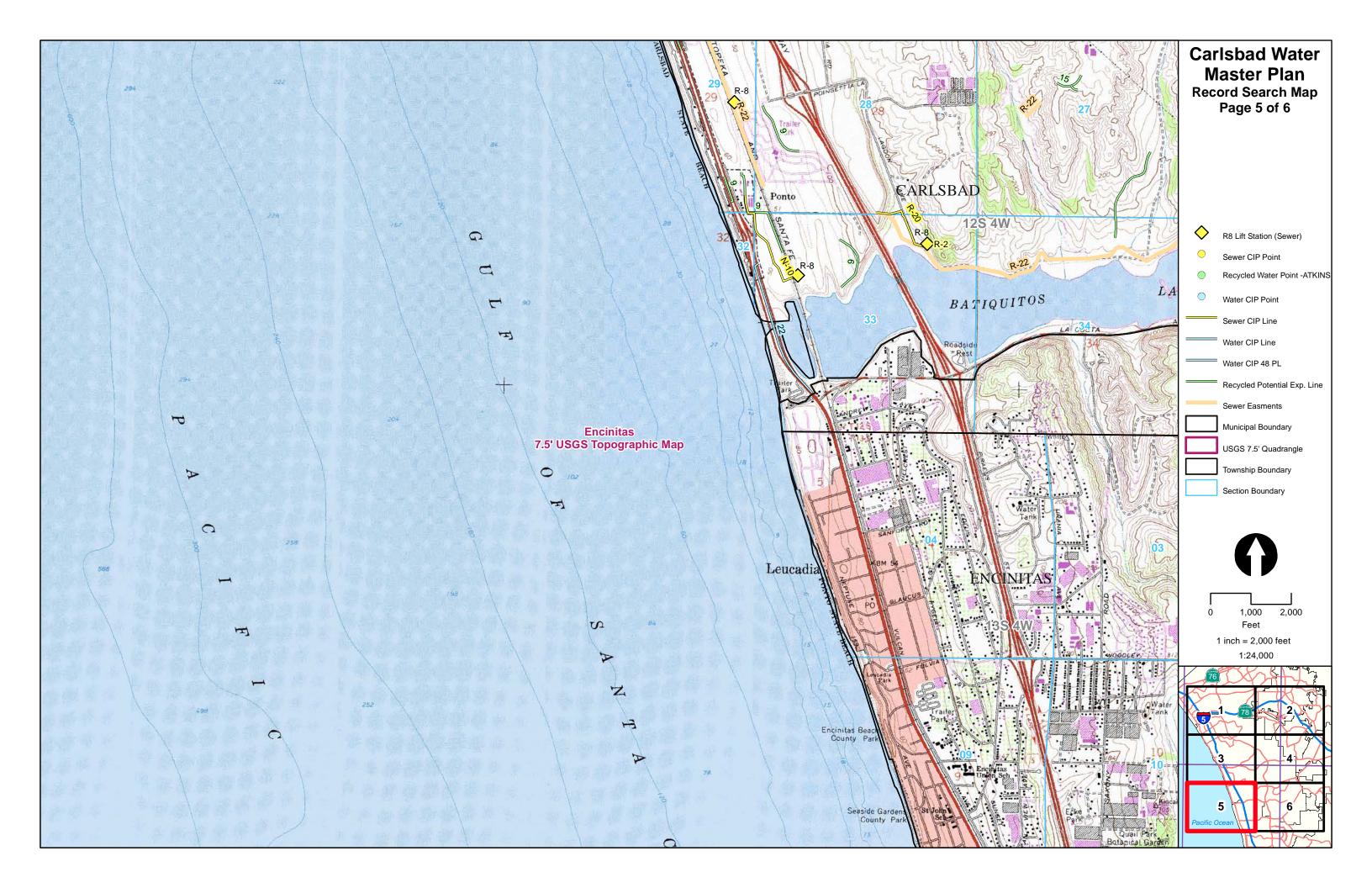
Enclosure: Topographic Map Book with CIPs (Maps 1 through 6)

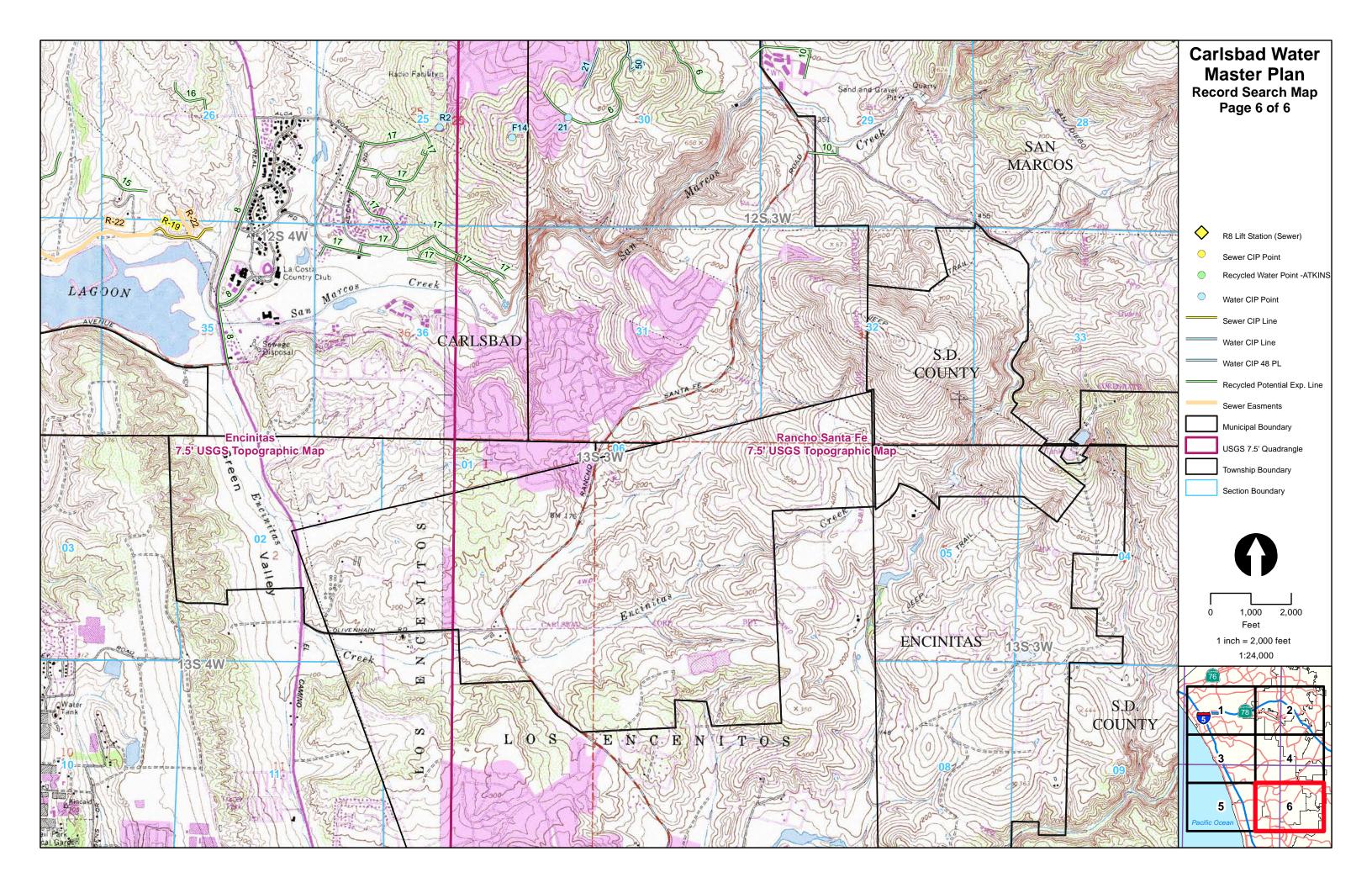












PALA TRIBAL HISTORIC PRESERVATION OFFICE

PMB 50, 35008 Pala Temecula Road Pala, CA 92059 760-891-3510 Office | 760-742-3189 Fax



March 8, 2012

Jennifer M. Sanka Atkins 650 East Hospitality Lane, Suite 450 San Bernardino, CA 92408

Re: Carlsbad Sewer, Water, and Recycled Water Master Plan EIR

Dear Ms. Sanka:

The Pala Band of Mission Indians Tribal Historic Preservation Office has received your notification of the project referenced above. This letter constitutes our response on behalf of Robert Smith, Tribal Chairman.

We have consulted our maps and determined that the project as described is not within the boundaries of the recognized Pala Indian Reservation. It is, however, within the boundaries of the territory that the tribe considers its Traditional Use Area (TUA). Therefore, we request to be kept in the information loop as the project progresses and would appreciate being maintained on the receiving list for project updates, reports of investigations, and/or any documentation that might be generated regarding previously reported or newly discovered sites. Further, we may recommend archaeological monitoring pending the results of site surveys and records searches associated with the project. If the project boundaries are modified to extend beyond the currently proposed limits, we request updated information and the opportunity to respond to your changes.

We appreciate involvement with your initiative and look forward to working with you on future efforts. If you have questions or need additional information, please do not hesitate to contact me by telephone at 760-891-3515 or by e-mail at sgaughen@palatribe.com.

Sincerely,

Shasta C. Gaughen, PhD

Tribal Historic Preservation Officer

Pala Band of Mission Indians

ATTENTION: THE PALA TRIBAL HISTORIC PRESERVATION OFFICE IS RESPONSIBLE FOR ALL REQUESTS FOR CONSULTATION. PLEASE ADDRESS CORRESPONDENCE TO SHASTA C. GAUGHEN AT THE ABOVE ADDRESS. IT IS NOT NECESSARY TO ALSO SEND NOTICES TO PALA TRIBAL CHAIRMAN ROBERT SMITH.

SAN LUIS REY BAND OF MISSION INDIANS

1889 Sunset Drive • Vista, California 92081 760-724-8505 • FAX 760-724-2172 www.slrmissionindians.org

March 30, 2012

Ms. Jennifer Sanka Associate Project Manager/Archaeologist Atkins North America 650 East Hospitality Lane, Ste. 450 San Bernardino, CA 92408

VIA ELECTRONIC MAIL Jennifer.Sanka@atkinsglobal.comm

RE: TRIBAL RESPONSE REGARDING THE REQUEST FOR INFORMATION ASSOCIATED WITH THE CARLSBAD SEWER, WATER, AND RECYCLED WATER MASTER PLANS ENVIRONMENTAL IMPACT REPORT PROJECT, LOCATED IN AN AREA ENCOMPASSING APPROXIMATELY 40 SQUARE MILES WITHIN CARLSBAD, OCEANSIDE, VISA, AND SAN MARCOS, COUNTY OF SAN DIEGO

Dear Ms. Sanka:

We, the San Luis Rey Band of Mission Indians ("Tribe") have received and reviewed your scoping letter dated February 24, 2012 requesting information associated with the Carlsbad Sewer, Water, and Recycled Water Master Plans Environmental Impact Report Project ("Project") located in an area encompassing approximately 40 square miles within Carlsbad, Oceanside, Vista, and San Marcos, County of San Diego ("Project Site/Area"). We understand that you are currently evaluating the possible cultural impacts that may be caused by this Project. Thank you for requesting our assistance in this matter.

As you are aware, we are a San Diego County Tribe whose traditional territory includes the current cities of Oceanside, Carlsbad, Vista, San Marcos and Escondido, as well as the communities of Fallbrook and Bonsall. As you may also know, we are always concerned about the preservation and protection of cultural, archaeological and historical sites within all these jurisdictions.

After a review of your letter, our Cultural Department has reviewed our sacred lands file and is aware of a multitude of cultural resources and sacred sites within a one mile radius of the Project Area, specifically including Native American burials.

Prior to the Tribe sharing any further information with Atkins and or the Lead Agency(ies) to the Project, the Tribe requests that any and all cultural resource surveys

completed in the Project Areas and/or for the benefit of this Project be provided to the Tribe's Cultural Department at 1889 Sunset Drive, Vista, CA 92081 as your earliest convenience. If digital copies are available, please send them directly to cjmojado@slrmissionindians.org.

We appreciate this opportunity to provide comments and share our concerns regarding this Project. We thank you for your assistance in protecting our invaluable Luiseño cultural resources.

Sincerely,

Merri Lopez-Keifer Tribal Legal Counsel

mi Long Kul

San Luis Rey Band of Mission Indians

cc: Melvin Vernon, Tribal Captain Carmen Mojado, Secretary of Government Relations and President of Saving Sacred Sites

RINCON BAND OF LUISEÑO INDIANS

Culture Committee

Post Office Box 68 · Valley Center, California 92082 · (760) 297-2621 or · (760) 297-2622 & Fax: (760) 749-8901



May 24, 2012

Jennifer Sanka Associate Project Manager/Archaeologist Atkins North America, Inc. 650 East Hospitality Lane, Suite 450 San Bernardino, CA 92408

Re: Information Scoping Letter associated with the Carlsbad Sewer, Water, and Recycled Water Master Plans Environmental Impact Report (EIR) Project, located in an area encompassing approximately 40 square miles within Carlsbad, Oceanside, Vista, and San Marcos, County of San Diego, California (USGS Encinitas, Rancho Santa Fe, San Luis Rey, and San Marcos, CA. 7.5 minute topographic quadrangles).

Dear Jennifer Sanka,

This letter is written on behalf of the Rincon Band of Luiseño Indians. Thank you for inviting us to submit comments on the above named project.

The Rincon Band has concerns for impacts, disturbances, and destruction to historic properties, cultural resources, and findings that are considered culturally important to the Luiseño people. This is to inform you that your identified locations are within the Aboriginal Territory of the Luiseño people, and also within Rincon's historic boundaries. This traditional customary land use area does contain a significant amount of known cultural resources.

The close proximity of the project locations to known archaeological sites is of concern to Rincon, and we are also concerned for the protection of any inadvertent archaeological discoveries that could be made at the project site. For any and all ground disturbance activities, we request that you have a Native American Monitor present at your work location. Additionally, we request that you would provide us with updates regarding the project.

If you have any questions, please contact (760) 297-2635. Thank you for this opportunity to protect and preserve our cultural assets.

Sincerely,

Røse Duro

Rincon Culture Committee Chair